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10/052,041	01/16/2002	Michael D. Hudson	CNSP3020	3058

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EXAMINER

SERRAO, RANODHI N

ART UNIT PAPER NUMBER

2141

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,041

Applicant(s)

HUDSON ET AL.

Examiner

Ranodhi Serrao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Item 200 in figure 7 and item 240 in figure 8. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because items 10, 40, 80, 110, and 150 do not point to any specific parts of the figures, drawing a rectangular box around the corresponding parts is recommended by the examiner. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the

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appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said last-element cache" in line 12 of the claim.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton (6,327,418) and Wiser et al. (6,385,596).

As per claim 1, Barton teaches a system supporting the playback of multi-media content in a virtual program format through a content player, said system comprising: a memory store providing for the storage of a plurality of digital content; a player interface supporting the transfer of a digital content stream to a content player and for receiving user input (column 3, line 57-column 4, line 12: wherein the apparatus supporting operations of a virtual VCR indicates it being able to receive user input). However Barton fails to teach a content control system coupled between said memory store and said player interface, said content control system including a network proxy, coupleable through a network to a content server and a control file server, and a program control system, responsive to the programmatic evaluation of a control file, to selectively transfer digital content from said content server to said memory store and to define a dynamic program order for selectively streaming said plurality of digital content from said last-element cache through said player interface as said digital content stream, wherein said dynamic program order is determined based on said control file subject to predetermined selective variation based on said user input. Wiser et al. teaches a content control system coupled between said memory store and said player interface, said content control system including a network proxy, coupleable through a network to a content server and a control file server, and a program control system, responsive to

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the programmatic evaluation of a control file, to selectively transfer digital content from said content server to said memory store (column 26, lines 3-10, column 27, lines 12-21); and to define a dynamic program order for selectively streaming said plurality of digital content from said last-element cache through said player interface as said digital content stream, wherein said dynamic program order is determined based on said control file subject to predetermined selective variation based on said user input (column 29, lines 57-67). It would have been obvious to one having ordinary skill in the art at the time of the invention to add a content control system coupled between said memory store and said player interface, said content control system including a network proxy, coupleable through a network to a content server and a control file server, and a program control system, responsive to the programmatic evaluation of a control file, to selectively transfer digital content from said content server to said memory store and to define a dynamic program order for selectively streaming said plurality of digital content from said last-element cache through said player interface as said digital content stream, wherein said dynamic program order is determined based on said control file subject to predetermined selective variation based on said user input in order to successfully deliver the media data file to a media player at a client computer for playback.

As per claim 2, Barton teaches a system supporting the playback of multi-media content in a virtual program (column 3, line 57-column 4, line 12); a content player operative to perform a digital content stream and provide user input (column 3, line 57-column 4, line 12: wherein the apparatus supporting operations of a virtual VCR

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indicates it being able to receive user input). However Barton fails to teach a last-element cache memory providing for the storage of a plurality of digital content; a cache control system coupled between said last-element cache and said content player, said cache control system including a network proxy, coupleable through a network to a content server and a control file server, and a program control system, responsive to the programmatic evaluation of a control file, to selectively transfer digital content from said content server to said last-element cache memory and to define a dynamic program order for selectively streaming said plurality of digital content from said last-element cache to said content player as said digital content stream, wherein said dynamic program order is determined based on said control file subject to predetermined selective variation based on said user input. Wiser et al. teaches a last-element cache memory providing for the storage of a plurality of digital content (column 22, line 55-column 23, line 15) a cache control system coupled between said last-element cache and said content player, said cache control system including a network proxy, coupleable through a network to a content server and a control file server, and a program control system, responsive to the programmatic evaluation of a control file, to selectively transfer digital content from said content server to said last-element cache memory (column 26, lines 3-10, column 27, lines 12-21); and to define a dynamic program order for selectively streaming said plurality of digital content from said last-element cache to said content player as said digital content stream, wherein said dynamic program order is determined based on said control file subject to predetermined selective variation based on said user input (column 29, lines 57-67). It

would have been obvious to one having ordinary skill in the art at the time of the invention to add a last-element cache memory providing for the storage of a plurality of digital content; a cache control system coupled between said last-element cache and said content player, said cache control system including a network proxy, coupleable through a network to a content server and a control file server, and a program control system, responsive to the programmatic evaluation of a control file, to selectively transfer digital content from said content server to said last-element cache memory and to define a dynamic program order for selectively streaming said plurality of digital content from said last-element cache to said content player as said digital content stream, wherein said dynamic program order is determined based on said control file subject to predetermined selective variation based on said user input in order for the consumer to play back purchased media data files and create play lists or track lists.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton (6,327,418) and Wiser et al. (6,385,596) as applied to claim 2 above.

As per claim 3, Barton and Wiser et al. teach the limitations of claim 2 but Barton fails to teach said plurality of digital content includes a plurality of discrete content objects and wherein said program control system is responsive to a plurality of predefined constraints on the order and frequency that said discrete content objects are streamed to said content player such that said dynamic program order is compliant with said plurality of constraints. However Wiser et al. teaches said plurality of digital content includes a plurality of discrete content objects and wherein said program control system is responsive to a plurality of predefined constraints on the order and frequency that

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said discrete content objects are streamed to said content player such that said dynamic program order is compliant with said plurality of constraints (column 3, line 64-column 4, line 12 and column 27, lines 12-40: wherein content manager serves the function of a program control system).). It would have been obvious to one having ordinary skill in the art at the time of the invention to add said plurality of digital content includes a plurality of discrete content objects and wherein said program control system is responsive to a plurality of predefined constraints on the order and frequency that said discrete content objects are streamed to said content player such that said dynamic program order is compliant with said plurality of constraints in order to protect the purchase-quality audio images from creation by an artist all the way through purchase and playback by the user.

As per claim 4, Barton and Wiser et al. teach the limitations of claims 2 and 3 but Barton fails to teach said cache control system stores said user input relative to said discrete content objects in a user input store and wherein said program control system is coupled to said user input store to qualify said dynamic program order with respect to said user input subject to compliance with said plurality of constraints. However Wiser et al teaches said cache control system stores said user input relative to said discrete content objects in a user input store and wherein said program control system is coupled to said user input store to qualify said dynamic program order with respect to said user input subject to compliance with said plurality of constraints (column 5, lines 1-16). It would have been obvious to one having ordinary skill in the art at the time of the invention to add said cache control system stores said user input relative to said

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discrete content objects in a user input store and wherein said program control system is coupled to said user input store to qualify said dynamic program order with respect to said user input subject to compliance with said plurality of constraints in order to allow only the purchaser to decrypt the purchased audio media file.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barton (6,327,418) and Wiser et al. (6,385,596) as applied to claims 2 and 3 above, and further in view of Pezzillo et al. (6,434,621). Barton and Wiser et al. teach the mentioned limitations of claims 2 and 3 above but fail to teach said plurality of constraints include the constraints defined by the Digital Millennium Copyright Act. However Pezzillo et al. teaches said plurality of constraints include the constraints defined by the Digital Millennium Copyright Act (column 16, lines 26-37). It would have been obvious to one having ordinary skill in the art at the time of the invention to add said plurality of constraints include the constraints defined by the Digital Millennium Copyright Act in order to provide for an automated method for the compliance and reporting requirements for a statutory performance license.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barton (6,327,418), Wiser et al. (6,385,596), and Pezzillo et al (6,434,621) as applied to claims 2, 3, and 5 above. Barton, Wiser et al., and Pezzillo et al. teach the limitations mentioned above in claims 2, 3, and 5 above but Barton and Pezzillo et al. fail to teach user input specifies the blocking of a corresponding one of said discrete content objects. However, Wiser et al. teaches user input specifies the blocking of a corresponding one

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of said discrete content objects (column 16, lines 4-13: wherein the streamed media data file 200 functions as discrete content objects).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nally et al. (5,808,629) teaches an Apparatus, systems and methods for controlling tearing during the display of data in multimedia data processing and display systems. Carmel et al. (5,841,432) teaches a Method and system of building and transmitting a data file for real time play of multimedia, particularly animation, and a data file for real time play of multimedia applications. Hamadani et al. (5,845,083) teaches a MPEG encoding and decoding system for multimedia applications. Carter et al. (6,026,474) teaches a Shared client-side web caching using globally addressable memory.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ranodhi Serrao whose telephone number is (571)272-7967. The examiner can normally be reached on 8:00-5:30pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharra can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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SUPERVISORY PATENT EXAMINER